

## **DUMONT JOINT LAND USE BOARD MINUTES FOR NOVEMBER 30, 2010 MEETING**

Flag Salute

**SESSION:** This is a meeting of the Joint Land Use Board, of the Borough of Dumont, held in the Council Chambers.

**November 30, 2010  
7:30 PM**

**SUNSHINE LAW:** This meeting is a regularly scheduled meeting of the Joint Land Use Board, of The Borough of Dumont, held in the Council Chambers on November 30, 2010. The date, time, and location were established by the resolution of the Board. A copy of the resolution was forwarded to ***The Record*** and the ***Ridgewood News***, the official newspapers of the Borough of Dumont, filed with the Borough Clerk and posted in the Borough Hall of the Borough of Dumont. All notice requirements of the Open Public Meetings Act of the State of New Jersey have been fulfilled.

### **ROLL CALL:**

Thomas Trank	P	Marian Reitano	A	Kenneth Freeman	P
Elizabeth Marchese	P	Ken Melamed	P	Robert Huth	A
Eric Abrahamsen	P	William Goodman	P	Irwin Buchheister Alt # 1	P
Elmer Pacia Alt # 3	P	Chairman Timothy Hickey	P		

Others: Board Attorney – Kaufman, Bern, Deutsch & Leibman: Marc Leibman-P  
Board Engineer – Birdsall Engineering: Chas Holloway-P  
Board Planner – Neglia Engineering: Dan Kaufman-P  
Board Clerk - Rosalia Bob-P

**BUSINESS:** Review and Approval of Business Professional Invoices

Chairman Timothy Hickey states that he will sign off on these items as the meeting proceeds.

**BUSINESS:** Approval of August, September and October 2010 Minutes

Chairman Timothy Hickey tables the minutes till the following month's meeting December 28, 2010.

**BUSINESS:** Discussion and Approval of 2011 Joint Land Use Board Meeting Dates

Chairman Timothy Hickey requests that every board member reviews the dates given and take some time to check their schedules to see if there are any unforeseen conflicts.

Chairman Timothy Hickey tables this matter till the following month's meeting December 28, 2010.

**RESOLUTION:** 10-08 Raymond & Abbie Slaman 67 Sherwood Road

Motion: Elizabeth Marchese

2<sup>nd</sup> by: Eric Abrahamsen

**ROLL CALL:**

Thomas Trank	A	Marian Reitano	NA	Kenneth Freeman	A
Elizabeth Marchese	Y	Ken Melamed	Y	Robert Huth	NA
Eric Abrahamsen	Y	William Goodman	A	Irwin Buchheister Alt # 1	Y
Elmer Pacia Alt # 3	NA	Chairman Timothy Hickey	Y		

Motion Approved: 5 – 3

**CONTINUATION:** 10-04 15 Wakelee Drive Corp. 211 Dixon Avenue

Block- 724, Lots- 3

Minor Subdivision into two single family building lots, Bulk Var.

The applicant's attorney Allen Bell begins by explaining that this application is a continuation and had been carried from the following month because revisions were being made to the plans. He states to the board that it has come to his attention that the tape from the September hearing had problems and that they should begin anew. The board attorney Marc Leibman states that they should re-present information because if the application results in litigation the board cannot reproduce a transcript of that hearing. Allen Bell states that some information is not necessary to re-present since revisions were made but under the circumstances they will revisit information and re-present testimony. He additionally states that he will dispense with opening statements and will call his first witness.

The first witness is the engineer and planner for the project, Michael Hubschman at 263 S. Washington Avenue Bergenfield NJ. They present into evidence A1 Elevation Plan, A2 Photographs and A3 Revised Subdivision Map. Mr. Hubschman details the changes made to the subdivision map. He additionally explains that they have researched the sewer maps for the town and that lot contains 2 sewer lateral connections to the main as seen on the town map. They assume that that area was once contemplated as being subdividable. Mr. Hubschman states that the area is 1 & 2 Family residential uses and the applicant intended to demolish the existing house and accessory structures in order to build 2 new houses on the subdivided lot. He details the changes made to the architectural plans and that they had the architect design the 2 houses they are looking to build. Mr. Hubschman states that the new houses were shrunk in size a bit and were

lowered 2 feet in order to keep the esthetics and be more on par with the surrounding properties. Mr. Hubschman explains that the drainage will be contained to the rear yard into seepage pits and details that the retaining wall will connect to the neighbor's wall at the same height. He states that there will be no impact on the neighbors because of the lowering of the houses and additionally the move of the seepage pit away from trees will enable the trees to remain on the lot. Mr. Hubschman details the lot sizes of each of the subdivided lots and explains that the houses to be built on the lots will conform to zoning but the lots themselves will be nonconforming lots. He states that within 200 feet of the site there are 22 lots with only 4 of them being conforming lots. He explains that the nonconforming vary in size anywhere between 40-81 feet in size with even 3 two family homes being on lots 40 feet in size. Mr. Hubschman states that 82% of the lots in the neighborhood are on nonconforming lots. He states that the general welfare will improve because the existing house is a blight; the two houses will be new and consist of new engineering grading; the neighborhood will be visually enhanced; drainage on the lot will be improved so that less runoff will happen than what exists today and that there will be no detriment to the neighborhood because the two new houses will be conform to the zoning regulations and be in keeping with the neighborhood. The board engineer asks if they received the engineering letter with its comments. Mr. Hubschman states that they will comply with all the items.

Chairman Timothy Hickey opens the hearing to the public. Erney Thoma at 215 Dixon Avenue asks if the 10% rule applies to a D variance with this application. Marc Leibman explains that the 10% only pertains to the height of a structure and not the width of a lot. Chairman Timothy Hickey closes the hearing to the public.

The attorney Allen Bell presents his next witness who is the contract purchaser of the property and the developer, Mario Valente at 127 S Washington Avenue Bergenfield. Mr. Valente explains that he has been a builder for 35 years and has built several homes in Dumont. He explains that the existing house is in horrible condition and has mold and mildew all over the interior of the dwelling; water damage throughout stemming from water seeping through the damaged roof; the retaining wall on the property is crumbling; the house is an eyesore and contains an odor and the mold is threw to the framing of the house. He states that the damage existing to the house makes it a liability and you don't know if the house can be completely remediate thusly making the existing dwelling not salvageable. Mr. Valente states that the 2 new single family homes will be both same in the interior consisting of 4 bedrooms, 2 ½ bathrooms, living room, kitchen and dining room and both having a single car garage. He presents into evidence A4 two house rendering (consisting of the house being built on lot 3.01 and the first option of the house that could be built on lot 3.02) and A5 single house rendering (second option of house that could be built on lot 3.02). Elizabeth Marchese asks how they know that mold is down to the framing of existing structure. Mario Valente asks his son, Mario V. Valente to give testimony on this. He begins by stating he is an experienced builder of homes and that he did the interior inspection and visually saw the water coming threw into the house and the mold inside of it. He states that there are holes in the ceiling where you can visually see three different color molds growing. Elizabeth Marchese asks if they brought in a mold remediation expert. He states no expert was brought in but it is

apparent that there is a major mold problem. Elizabeth Marchese states that there is a house on the block for sale and is it their house and is it complete. Mr. Valente states that the house is complete and for sale.

Chairman Timothy Hickey opens the hearing to the public. Laura Labetti at 250 Dixon Avenue asks what the regulations for a renovation. Allen Bell states that someone could demo almost the whole house and rebuild an even bigger single family mic-mansion on that lot. Chairman Timothy Hickey closes the hearing to the public.

Allen Bell presents into evidence a prior resolution from 2008 in which a former developer in that area was granted a subdivision with similar sized lots to build two new homes. He further states that there have been 2 prior subdivisions on that street. Marc Leibman indicates that those were the jurisdiction of a different board and that this new joint board cannot be bound by the prior board's actions.

Chairman Timothy Hickey opens the hearing to the public for comments. Joe Diore at 50 Concord Street states his concerns on the traffic impact to their quiet neighborhood to which construction and commercial vehicles would clog the area of an already busy school zone. Evelyn Paulsen at 250 Dixon Ave presents photographs of the conditions of the existing house (marked EP1 and EP2) stating that the construction would disturb the area and if the house has mold that bad why can't one single family home be built on the existing foundation. Agnes Fontenella at 53 Concord Street states that 4 new homes have been built in Dixon area and to allow a subdivision again would be too extensive; neighbors have endured construction for too long and with economic times would these new houses be sitting vacant. Michelle Sciarrino at 40 Concord Street explains that they did mold remediation on their home and questions the tax revenue but the board attorney states to her that her taxes have no representation on the application. Luis Labetti at 250 Dixon Ave states that he wishes to read a letter written from Mohabed Khan but the board attorney stops him stating that he cannot read the letter because you can only comment on the record your own individual feelings. Mr. Labetti states that he lost his view from his windows from trees to it now being just houses. Erney Thoma at 215 Dixon Ave states that he moved here for the open spaces and that one single family home would be better on the lot. Bob Fortsch at 511 Bernida Drive River Vale states that he is a former homeowner on Dixon and he purchased the house there not for the house but for the block; he's currently the Chairman of the River Vale Board and explains that building here would cause erosion issues and with his real estate background the property values in this area would go down. Elizabeth Marchese asks if he still owns property in Dumont. Mr. Fortsch states no and that he is here on behalf of the other homeowners who he is friends with and that anyone can be a public meeting and give testimony. Elizabeth Marchese states for him not to give a lecture. The applicant's attorney Allen Bell asks why he knows that the property values will go down and is he a licensed real estate appraiser or broker. Mr. Fortsch states that he is a real estate salesman. Marc Leibman states to the board that only a licensed real estate appraiser can give competent testimony to real estate value. Chairman Timothy Hickey closes the hearing to the public.

Allen Bell gives his closing summation indicating that even with the neighbors' discontent the owner has a right to develop property if it meets the laws. He explains that the applicant has enough faith that the two new homes will sell. He details that with the size of this lot someone could buy it and build a humungous home on the property rather than these two modest dwellings. Mr. Bell explains that the developer has changed his plans to appease the neighbors and that only 4 out of the 22 lots found in the area are conforming lots meanwhile the existing nonconforming lots are similar in size to what they are proposing. Mr. Bell sites other NJ case laws to further show that the application is good and the relief should be granted. Ken Melamed asks what will be the longest time for the construction of the 2 houses. Mr. Valente states if he build both houses at the same time he could be finished in 6 months. He states that he built the houses on Washington Court and constructed a new road and all that only took a year to complete. He states that the houses across the street for this project to much longer than 6 months due to different builder having inexperienced subcontractors.

Chairman Timothy Hickey polls the board to see who was present at the September hearing for this application:

Thomas Trank: yes

Elizabeth Marchese: yes

Eric Abrahamsen: yes

Elmer Pacia: no

Marion Reitano: no

Kenneth Freeman: yes

William Goodman: yes

Chairman Timothy Hickey: yes

Ken Melamed: yes

Irwin Buchheister: yes

Chairman Timothy Hickey calls for a motion from the board. Since no one responds he offers a motion.

Motion to Approve: Chairman Timothy Hickey

Motion not seconded

Motion to Deny: Elizabeth Marchese

2<sup>nd</sup> by: Thomas Trank

## ROLL CALL:

Thomas Trank	Y	Marian Reitano	NA	Kenneth Freeman	A
Elizabeth Marchese	Y	Ken Melamed	Y	Robert Huth	NA
Eric Abrahamsen	Y	William Goodman	Y	Irwin Buchheister Alt # 1	Y
Elmer Pacia Alt # 3	A	Chairman Timothy Hickey	N		

Motion Denied: 6 – 1 (2 Abstain)

**FORMAL:** 10-07 Avtar & Juliet Singh 275 Depew Street  
Block- 918, Lots- 17 & 1  
Lot Merge

Chairman Timothy Hickey and Marc Leibman announce that neither the applicant nor the attorney appeared for the hearing. Marc Leibman noted that the applicant's attorney did send a letter indicating that the applicant is out of the country and could the application be carried. Marc Leibman states that he will carry this matter to the following month's meeting held on December 28, 2010.

**FORMAL:** 10-09 Antonio Drago 34 Johnson Avenue  
Block- 1204, Lot- 12  
Single Family House Addition, Bulk Variances

The applicants Mr. and Mrs. Drago are represented by the projects architect Chris Blake at 125 Tenaflly Road Tenaflly NJ. Mr. Blake begins by stating they are back before the board with a new application showing an addition to the existing single family house. He states they are proposing to relocate the garage and add a new family room in between the existing house and new garage. Mr. Blake states that the addition will be 363 square feet in size. He explains that the original application did not have a garage but that the new plans have a garage along with the family room addition so in keeping with the Borough's Ordinance. Mrs. Drago explains that the homeowners do not want to move out of Dumont but with their circumstance they have to do the addition or find a new home. She states that they have 4 children and 3 out of the 4 children are disabled and have autism. She further explains that 2 out of her 3 autistic children have severe autism. Mr. Drago states that the additional family room is for the safety of their children since they have to be closely monitored. If Mrs. Drago is in the kitchen the new room would allow her to keep an eye on the kids. Chris Blake details the variances required with the application and that they will match the existing house. Chas Holloway and Elizabeth Marchese ask about the drainage and green space calculations. Dan Kaufman asks if the proposed garage will be a single car garage. Mr. Blake states yes that the garage will be more useable now and that it will be next to the addition. Chas Holloway states that its very similar to the last application and asks about a few measurements on the survey and architectural plans. Dan Kaufman states that the biggest concern the last time was the loss of the garage and that the applicant took great strides to change what was objected too. Thomas Trank asks if a stipulation could be added that the garage remains a garage. Marc Leibman states they can make that stipulation in the resolution.

Motion to Approve with Stipulation: Ken Melamed  
2<sup>nd</sup> by: William Goodman

**ROLL CALL:**

Thomas Trank	Y	Marian Reitano	NA	Kenneth Freeman	A
Elizabeth Marchese	N	Ken Melamed	Y	Robert Huth	NA

Eric Abrahamsen	Y	William Goodman	Y	Irwin Buchheister Alt # 1	N
Elmer Pacia Alt # 3	Y	Chairman Timothy Hickey	Y		

Motion Approved: 6 – 2 (1Abstain)

**FORMAL:** 10-10 Judith Brodtkin 197 New York Avenue  
Block- 1005, Lot- 25

Minor Subdivision into two single family building lots, Bulk Var.

The attorney for the application Richard Kelly begins by stating that this is a subdivision application. He states that the existing house will remain on one lot measuring 75x108 and the other new lot will measure 50x108 and contain a new house. He states that there are no architectural plans and there is no new house design, only a footprint of what could possibly be built there. Richard Kelly presents into evidence A1-A4 which are forms indicating power of attorney of the property owner to his client, affidavits of ownership, death certificate of Leo husband of the property owner and Hubschman Minor Subdivision Plans.

Richard Kelly calls his first witness who is the son in law to the property owner Moshe Kline 16 Rubin Street Jerusalem Israel. He states that the owner of the property Judith Brodtkin is his mother in law and after her husband Leo passed on Mrs. Brodtkin gave him and his wife Diana power of attorney. He explains that Judith is alive, she is 100 years old and she is in their home in Israel being cared for around the clock. Mr. Kline lives in Israel fulltime and travels to the US time to time. He explains that the only thing that will be demolished on the primary lot will be the 2 car garage. He states that Judith is aware that he is here in the US but that she has dementia. The subdivision and the sale of the property will go towards the cost of Judith's care. Mr. Kline states that the property is at the end of a dead end street and abuts a drainage canal that the DPW clears and drains. He says to his knowledge he only recalls knowing of water in the basement one time. Chas Holloway asks the location of the oil tank. Mr. Kline states that the oil tank is buried outside in the front yard and the house is oil heat with the tank still functioning.

Chairman Timothy Hickey opens the hearing to the public. Ann Farricker Kane at 33 Canterbury Lane New Windsor NY states that her parents live at 139 Howard Street and she has power of attorney over them, she questions the DPW cleaning out of the area and asks if he has any flooding in the yard. Mr. Kline states that he hasn't seen flooding in the yard. Carl Famulare at 170 Blauvelt Ave states he lives adjacent and directly behind the property and that his yard floods, he questions when the DPW had been there to clean up area. Rosanne Mancuso at 182 New York Ave asks about parking since they will be taking away the garage. Mr. Kline states that a driveway will be added. Chairman Timothy Hickey closes the hearing to the public.

Richard Kelly calls for his next witness a representative from the Building Department Arthur Steven Cavadias who is the Zoning Officer for the Borough of Dumont. Mr. Cavadias states that the ditch on New York Avenue which was long thought by the DPW to be an easement is in fact privately owned. He explains that this had been brought to

the Building Departments attention today that this 10ft width of property is attached to a deed on another property to which a developer owns. Mr. Cavadias states that the DPW has performed maintenance and drainage in that area.

Chairman Timothy Hickey opens the hearing to the public. Ann Farricker Kane at 33 Canterbury Lane New Windsor NY asks who will serve that area now if the Borough doesn't own it and do you have the records of the DPW cleaning up that area. Mr. Cavadias states that he doesn't know yet who will do maintenance there and that the DPW maintains their records. Judy Famulare at 170 Blauvelt Ave states that she doesn't understand how the Building Department learned about this today when she herself went to the tax office and they told her that that property is privately owned, was that owner served notice. Mr. Kelly explains that the property owner was not listed on the 200 radius tax list and he is only bound to serve notice on what is given to him. Chairman Timothy Hickey closes hearing to the public.

Richard Kelly asks the board attorney for them to carry Michael Hubschman's testimony till the following months hearing. He explains that Mr. Kline will not be able to testify again at the next hearing because he will be back in Israel and they'd rather give time for anymore questions that might pertain for him.

Chairman Timothy Hickey opens the hearing to the public for any questions strictly pertaining to Mr. Kline and his testimony. Mira DeSilva at 190 New York Avenue states that she lives across the street from the property and has several questions but it is explained to her that her question will be for the engineer who will be appearing next month. Marc Leibman explains that this application is for the subdivision so that the subdivided lot can be sold off to a developer. He further states that only a general building envelope will be on the new subdivided lot and from a legal stand point the property owner does not have to be here for the rest of the proceedings. Carl Famulare asks who will live in the existing house. Mr. Kline stated that he doesn't know. David Emerson at 143 Larch Ave states that he would like to speak on behalf of a resident at 193 Larch Ave. Marc Leibman interrupts and explains that you cannot provide testimony on behalf of someone else. Mr. Kline explains that the existing house will remain if we get to subdivide and the only change to the primary lot would be the taking down of the existing garage and the plans provide for a driveway to be installed. Chairman Timothy Hickey closes the hearing to the public.

Richard Kelly requests that the application be carried. Marc Leibman states that the application will be carried to the following month and no further notice is required.

Motion to Adjourn: Eric Abrahamsen  
2<sup>nd</sup> by: Elizabeth Marchese

Minutes respectfully submitted by:  
Rosalia Bob  
Joint Land Use Board Clerk